

**COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u><b>June 20, 2007</b></u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u><b>2004-219-E</b></u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>	ORDER NO.	_____

**SUBJECT:**

DOCKET NO. 2004-219-E – Progress Energy Carolinas, Incorporated – Petition to Terminate Service – Discuss with the Commission a Petition to Vacate, Reconsider, Rescission or Amend Directive Filed by Beatrice Weaver.

**COMMISSION ACTION:**

Beatrice Weaver, in Docket No. 2004-219-E, is requesting that the Commission reconsider our final determination dismissing her counterclaims against Progress Energy issued in Order No. 2007-298.

This request results from Ms. Weaver's most recent motion to reconsider a hearing officer directive dated May 24, 2007 that denied her Petition for Rehearing or Reconsideration of this order as untimely filed. A return receipt card indicates that Ms. Weaver received the order dismissing her counterclaims on Saturday, May 5, 2007. However, she did not file her Petition for Rehearing or Reconsideration of this order until May 17, twelve days later. At issue is what law applies to compute the timeliness of her filing.

Ms. Weaver argues that the hearing officer's directive is mistaken because Commission Regulation 103-881 allows twenty days after the date of receipt of the order in which to file a petition for reconsideration. However, regulation 103-881(B) plainly states that the twenty day time period applies "*except as otherwise provided by S.C. Code Ann., Section... 58-27-2150*".

Section 58-27-2150 applies to both rehearing and reconsideration in electric utility proceedings – as is the case here. Section 58-27-2150 only allows ten days, including weekends, for a party to apply for rehearing or reconsideration after the receipt of an order. Ms. Weaver's notice of entry of the order occurred on May 5, 2007, but her filing was not made until May 17.

Ms. Weaver argues that regardless of the application of this statute, according to Rule 6(e) of the South Carolina Rules of Civil Procedure, she was entitled to five additional days to file her petition to reconsider because the order was sent to her by mail. However this rule does not apply. S.C. Code Section 58-27-2150 governs Ms. Weaver's petition, not Rule 6(e).

Consequently, under the statute 58-27-2150, Ms. Weaver's Petition for Rehearing or Reconsideration is untimely, since it arrived at our offices two days late. As a result, I move to deny Beatrice Weaver's motion to reconsider the Commission's hearing officer

directive in this matter with the ultimate outcome of denying her Petition for Rehearing or Reconsideration of Order No. 2007-298.

I would like to note that we have allowed considerable leeway to Ms. Weaver and have offered significant accommodations to her during the course of this docket.

PRESIDING	<u>Hamilton</u>				Session Regular
	MOTION	YES	NO	OTHER	:
					Time of 2:30 PM
					Session _____
CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
FLEMING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Absent	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		APPROVED _____
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		APPROVED STC 30 DAYS _____
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		_____
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		ACCEPTED FOR FILING _____
WRIGHT	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		DENIED _____
					AMENDED _____
					TRANSFERRED _____
					SUSPENDED _____
					CANCELED _____
					SET FOR HEARING _____
					_____
					ADVISED _____
					CARRIED OVER _____
					RECORDED BY <u>T. DeSanty</u>

\*Commissioner Fleming was out on Family Sick Leave